

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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DAMIQUE FENNELL,

Plaintiff,

20 **CIVIL** 3764 (GHW)

-against-

**JUDGMENT**

TIMOTHY MCCARTHY, Superintendent,

Defendant.

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It is hereby **ORDERED, ADJUDGED AND DECREED:** That for the reasons stated in the Court's Order dated April 28, 2021, and by letter dated March 29, 2021, Petitioner Damique Fennell requested dismissal of his petition for a writ of habeas corpus, brought under 28 U.S.C. § 2254, pursuant to Fed. R. Civ. P. 41(a). Dkt. No. 41. On April 13, 2021, Magistrate Judge Fox issued a Report and Recommendation recommending that this Court dismiss Mr. Fennell's petition without prejudice, pursuant to Rule 41(a)(2). Dkt. No. 42. Objections to the Report and Recommendation were due on April 27, 2021. To date, the Court has received no objections. The Court has reviewed the Report and Recommendation for clear error and finds none. See *Braunstein v. Barber*, No. 06 Civ. 5978 (CS) (GAY), 2009 WL 1542707, at \*1 (S.D.N.Y. June 2, 2009) (explaining that a "district court may adopt those portions of a report and recommendation to which no objections have been made, as long as no clear error is apparent from the face of the record"). Accordingly, the Court has accepted and adopted the Report and Recommendation in its entirety and Petitioner's § 2254 application is dismissed without prejudice; accordingly, the case is closed.

**Dated:** New York, New York  
April 29, 2021

**RUBY J. KRAJICK**

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**Clerk of Court**

**BY:**

*K. mango*

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**Deputy Clerk**